IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.90 OF 2002

IN

SUIT NO.3513 OF 1988

Naseem Jehangir Dhunjibhoy .. Plaintiff.

Versus

Dinshaw Jehangir Mistry alias
Dhunjibhoy & Ors. .. Defendants.

Ms.Trupti Sanghvi for plaintiff.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 6th AUGUST, 2007.

P.C.:

1. This Notice of Motion is taken out by the plaintiff and an order was passed by me that this Motion can be heard alongwith Court Receiver's Report. The Court Receiver has submitted his report on 16th June, 2005. The Motion has appeared after that for hearing and final disposal.

2. On 13th July, 2007, the Motion was placed before

me alongwith Court Receiver’s report and none appeared for the plaintiff in support.

3. The Court Receiver is sought to be discharged in this proceedings. The request is that the Court Receiver has been appointed of a Hotel at Shirdi and the plaintiff is appointed as agent on terms and conditions including payment of royalty. Defendant No.4 has been allowed to withdraw the sum of royalty but it has not come forward, according to the plaintiff to withdraw the sum for last several years. The amount is lying with the Court Receiver. The Bank’s claim has also been settled.

4. Some sort of settlement is pleaded with the defendant No.3 and, therefore, it is contended that the amount lying with the Court Receiver be paid over to the plaintiff, suit be disposed of and Court Receiver be discharged.

5. None appears for the plaintiff to argue this Motion. None was present on the last occasion. Today, a request is made to adjourn the matter because Mr.Sakhardande is in personal difficulty. On the last occasion also, none was present. I do not see any reason to grant such requests. In any event, the request made by

the plaintiff in the motion cannot be granted unless the suit is heard or appropriate orders passed decreeing the sum.

6. Notice of Motion is, therefore, misconceived and dismissed for want of prosecution.

(S.C.Dharmadhikari, J.)